

ENTERED

December 11, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA

VS.

DANIEL SILVA

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CRIMINAL ACTION NO. 2:11-CR-124

ORDER

Daniel Silva filed a motion to reduce his sentence pursuant to 18 U.S.C. § 3582(c)(2). D.E.

86. Silva seeks a sentence reduction based upon his age and his post-conviction rehabilitation.


“Federal courts are forbidden, as a general matter, to ‘modify a term of imprisonment once it has been imposed.’” 18 U.S.C. § 3582(c).” *Freeman v. United States*, 564 U.S. 522, 526 (2011); *Dillon v. United States*, 560 U.S. 817, 819 (2010); *United States v. Bridges*, 116 F.3d 1110, 1112 (5th Cir. 1997). A court may reduce a sentence in the following circumstances, 1) when the Bureau of Prisons moves the Court to modify the sentence, 2) under Rule 35 of the Federal Rules of Criminal Procedure, and 3) when the sentencing range under which the defendant was sentenced has been subsequently lowered, and a modification of sentence is consistent with the guideline’s policy statements. *See* 18 U.S.C. § 3582(c).

This Court may also resentence a defendant if the sentence has been vacated on direct appeal or through a successful motion pursuant to 28 U.S.C. § 2255. *Pepper v. United States*, 562 U.S. 476, 490 (2011); *see also United States v. Cardona*, 2011 WL 1228784 at *3 (5th Cir. Apr. 4, 2011) (designated unpublished) (assuming but not deciding that a sentence vacated pursuant to § 2255 results in a plenary resentencing). However, post-sentencing rehabilitation efforts alone do not provide this Court with the statutory authority to modify a sentence.

There are circumstances under which the Director of the Bureau of Prisons may file a motion for sentence reduction for a prisoner, but Silva would have to address his request to the prison authorities. *See* 18 U.S.C. § 3582(C) (1).

Silva's motion for sentence reduction (D.E. 86) is DENIED.

SIGNED and ORDERED this 11th day of December, 2017.



Janis Graham Jack
Senior United States District Judge